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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,070	10/25/2001	Wanda Green Thompson	RCA 89470	8767

7590 10/04/2007  
Joseph S Tripoli  
Thomson Multimedia Licensing Inc  
PO Box 5312  
Princeton, NJ 08543-5312

EXAMINER
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PENG, FRED H

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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10/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/018,070

Applicant(s)

THOMPSON ET AL.

Examiner

Fred Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed on 07/19/2007 have been fully considered but they are not persuasive.

Applicant argues on page 6 the third to the last line to page 7 lines 1-3 of Remarks that As such, Macrae fails to teach or suggest, inter alia, "determining whether a first type of advertisement exists in said stored advertisements ... enabling display of a second type of advertisement if said first type of advertisement does not exist in said stored advertisements .... and enabling display of said first type of advertisement in response to detecting user navigation within said electronic program guide if said first type of advertisement exists in said stored advertisements."

The Examiner respectfully disagrees with Applicant's arguments. Macrae does teach determining whether a first type of advertisement exists in said stored advertisements ... enabling display of a second type of advertisement if said first type of advertisement does not exist in said stored advertisements .... and enabling display of said first type of advertisement in response to detecting user navigation within said electronic program guide if said first type of advertisement exists in said stored advertisements (Para 216 lines 9-11; an ad sold is the first type advertisement to fill in the respective available space; if an ad space is not sold, a placeholder as the second type advertisement will fill in for that space).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 6-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Macrae et al (US 2003/0208756 A1).

Regarding Claims 6 and 10, Macrae discloses a system with corresponding method for providing advertisements in an electronic program guide (FIG.1, Para 27), comprising steps of:

first means for receiving and storing a plurality Of advertisements (Para 329 lines 1-4); second means for enabling a user to access said electronic program guide (FIG.2, 26, Para 28, Para 29, and Para 40, combination of remote control and central processor);

said second means determining whether a first type of advertisement exists in said stored advertisements, said first type of advertisement being displayable in response to user navigation within said electronic program guide (Para 327 lines 5-22, Para 328, Ad is displayed based on the selected program); said second means enabling display of a second type of advertisement if said first type of advertisement does not exist in said stored advertisements, said second type of advertisement being displayable independently of user navigation within said electronic program guide (Para 249; Para 216 lines 9-11; Ad placeholder is independently of user navigation); and

said second means enabling display of said first type of advertisement in response to detecting user navigation within said electronic program guide if said first type of advertisement exists in said stored advertisements (Para 328 lines 6-11; Para 216 lines 9-11).

Regarding Claims 7 and 11, Macrae further discloses first type of advertisement is stored in a first queue (Para 327 lines 1-3, 17-19, first type of advertisement is stored in the RAM), and said second type of advertisement is stored in a second queue (Para 249 lines 1-4, second type of advertisement is stored in ROM).

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Regarding Claims 8 and 12, Macrae further discloses first type of advertisement includes pre-defined control data (Para 327 lines 4-9, Para 328 lines 1-4, pre-defined control data is either category labels or viewer profile information) and said second type of advertisement does not include said pre-defined control data (Para 248, Ad placeholder does not include said pre-defined control data).

Regarding Claims 9 and 13, Macrae further discloses first type of advertisement includes a descriptor indicating at least one of a specific channel and a specific program (Para 32, FIG.1, - 52, Para 38).

Regarding Claims 14 and 15, Macrae further discloses if said first type of advertisement is displayed, said first type of advertisement represents a program in said electronic program guide that is highlighted or about to be highlighted (Para 227 lines 1-6).

#### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng  
Patent Examiner



VIVEK SRIVASTAVA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600